

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ANDREW FLOOD,)
)
)
PETITIONER)
)
v.)
)
PATRICIA BARNHART,)
)
)
RESPONDENT)

CIVIL No. 1:12-cv-174-DBH

**ORDER AFFIRMING RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On July 16, 2012, the United States Magistrate Judge filed with the court, with a copy to the petitioner, his Recommended Decision on 28 U.S.C. § 2254 Petition. The petitioner filed a motion for reconsideration of the Recommended Decision on August 31, 2012, and filed an objection to the Recommended Decision on September 7, 2010. The Magistrate Judge issued a Memorandum Decision and Order on Motion for Reconsideration on September 27, 2012, denying the motion for reconsideration.

I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, and determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. Because this Third Petition qualifies as “second or successive” pursuant to 28 U.S.C. § 2244(b)(3)(A), and the petitioner has not obtained the necessary permission for its filing from the First Circuit, the petition is **DISMISSED WITHOUT PREJUDICE** to the petitioner’s rights to return to this forum, after securing permission to do so from the First Circuit.

This ruling **Moots** the petitioner’s motions for appointment of counsel and for transcripts (ECF No. 3). The petitioner’s motion for an evidentiary hearing (ECF No. 8) and motion to amend habeas petition (ECF No. 13) are **DENIED**.

Finally, I also find at this time that no certificate of appealability should issue because there is no substantial issue that could be presented on appeal. See Fed. R. App. P. 22(b); First Circuit Local Rule 22.1.

So ORDERED.

DATED THIS 9TH DAY OF OCTOBER, 2012

/s/D. Brock Hornby

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE